

Probate Notes for August 23, 2007

Probate notes are a recommendation as to the outcome of the petition. Unlike tentative rulings, they do not automatically become adopted as the order of the court. If you wish to continue a matter, contact the civil division at (530) 406-6704. If you wish to have your petition preapproved, contact the probate examiner at (530) 406-6718 between the hours of 2 p.m. and 4 p.m.

Case: Probate Conservatorship of McCullough
Case No. CV PB 96-83

It is recommended to order that an amended 5th Account be filed, with a new balanced Summary of Account and supporting schedules. Neither the petition nor the account explicitly state the accounting period, but it appears to be May 1, 2003, through April 30, 2005.

The following problems are noted:

1. Confusion Regarding Starting Property on Hand:
 - a. The Declaration of G. Prather filed 7/28/03, states that Property on Hand (Schedule H) at the end of the 4th account was \$1,332,409.50.
 - b. The Declaration of G. Prather filed 7/12/07, states that Property on Hand at the beginning of the 5th account was \$1,638,384.20. Petitioner is requested to provide a detailed schedule of assets as of April 30, 2003.
2. Value of Annuity:
 - a. The Declaration of G. Prather filed 7/28/03, states that the value of the annuity at the end of the 4th account was \$1,169,459.39.
 - b. The 5th Accounting, Property on Hand (Schedule H) states the value of the annuity to be \$1,616,000 as of April 30, 2005. Petitioner is requested to show his calculations to arrive at the annuity carry value.
3. The accounting did not include a schedule stating the market value of the assets. Petitioner is request to show his calculations to arrive at the annuity's current market value. (Prob. Code, §2620, 1063(a).)
4. The original bank statements as of April 30, 2005, as required under Probate Code § 2620(c), are still not filed.
5. Further explanation is required for all instances where mortgage payments appear to be made, since it was stated in the Third Account and Report filed March 19, 2003, that the conservatee did not own real property: including but not limited to check numbers 1317, 1329, 1345, 1455, 1469, 1481, 1485, 1498, 1536.
6. Further explanation is required for all instances where Sacramento County property taxes were paid, since it was stated in the Third Account and Report filed March 19, 2003, that the conservatee did not own real property: including but not limited to check numbers 1385, 1504, 1505.
7. Further explanation is required for all payments to individuals or businesses for which the purpose is not stated: including but not limited to check numbers 1303, 1322, 1416, 1445, 1487, 1508, 1527.
8. Why the assets on hand as of April 30, 2005, do not include the auto purchased 2/25/04.

Case: Probate Conservatorship of Yuhre
Case No. CV PC 07-140

Counsel shall appear. Oppositions to granting of certain powers have been filed.

The following are not yet filed:

1. Proof of service of notice; and
2. Duties of Conservator form.

Case: Estate of Heon
Case No. CV PB 06-144

1. The notice requirements of Probate Code section 11000(b) have not been met because the notice does not state that an allowance of compensation to the administrators and attorney is being requested.
2. The petition appears to be a petition for preliminary distribution because Petitioners have not alleged that the estate is in a condition to be closed. (Prob. Code §10951, 11000(c).) Therefore, awarding of full statutory attorney's fees is not appropriate. It is recommended to award 75% of the statutory fees.

It is recommended to continue the matter so that an amended petition for preliminary distribution and notice of hearing may be filed and served.

Case: Estate of Mitchell
Case No. CV PB 07-133

It is recommended to grant the petition to administer the estate.